Common Cause In Wisconsin

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Testimony of Common Cause in Wisconsin

In Support of Senate Bill 77

Before the Senate Committee on Campaign Finance Reform,
Rural Issues and Information Technology

May 1, 2007

Senator Kreitlow and Members of the Committee:

This public hearing today marks the first concrete step forward by the Wisconsin Legislature in the long and needed task of reforming and make effective again, Wisconsin's campaign finance law – which has been deteriorating and spiraling downward, out of control in almost virtual freefall, since the mid 1980's. The hearing today on two extremely significant and important campaign finance measures follows in the wake of the most negative, expensive, demoralizing and special interest money-tainted election for Governor – last Fall – in Wisconsin's history which was followed, almost without pause by the most negative, expensive, demoralizing and special interest money-tainted election for a seat on the State Supreme Court –last month – in Wisconsin's history.

Common Cause in Wisconsin supports both campaign finance reform measures being considered by this committee today. Two weeks ago our State Governing Board endorsed the so called "Impartial Justice" legislation that would provide one hundred percent public financing for candidates for the Wisconsin Supreme Court who agree to limit their campaign spending. Obviously after the horrendous $5 million or more spent on the Ziegler-Clifford election – most of it undisclosed and unregulated money – a dramatic alternative to the current system for electing supreme court judges is needed in Wisconsin before the next election for a seat on the state's highest court commences in less than a year. Enactment of Assembly Bill 171 will provide a new and much better way to fund such races. But it is the disclosure and regulation of the campaign ads masquerading as issue advocacy for not just Supreme Court elections—but for all state elections in Wisconsin--that we are most concerned about and have been for more than ten years.

Senate Bill 77, introduced by Senators Jon Erpenbach and Mike Ellis, has impressive bipartisan and bicameral support and it would close the single largest, gaping loophole in Wisconsin's loop-hole ridden campaign finance law. It is a measure that has been in the

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TO: Members of the State Senate Campaign Finance Reform, Rural Issues and Information Technology

FROM: James A. Buchen, Vice President, Government Relations

DATE: May 1, 2007

RE: Opposition to Senate Bill 77

Background and Analysis

While WMC does not object to the goal of improving the quality of elections in Wisconsin, the reforms embodied in SB 77 may be worse than the perceived problems they are intended to address. Under the guise of reform, provisions of this bill represent significant government repression of free speech.

The bill creates Section 11.01(16)(a)3 stats., expanding the definition of "political purpose" to include any mass communication that invokes the name of a candidate 60 days prior to an election. Under existing law, Section 11.01(7) stats., defines disbursement as spending money for "a political purpose." Section 11.38(1) stats., prohibits corporations from making "disbursements."

As a result, this bill would prohibit a corporation from paying for any type of communication that invokes the name of a candidate for public office 60 days prior to an election.

Unions are not subject to this ban because they are specifically exempt from the prohibition, under section 11.38 (2)(c). Banning corporate issue advocacy in this way, at this strategic point in an election, would give a clear advantage to labor unions and their political allies, not subject to the ban.

Action Requested – Oppose SB 77

Therefore, we urge the Committee to reject SB 77 in order to maintain a semblance of balance between the business and labor perspectives in the public debate during the election season.

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Testimony on Senate Bills 77, 170, 171 before the Senate Committee on Campaign Finance Reform, Rural Issues and Information Technology

Tuesday, May 1, 2007

Thank you for holding this hearing today. We appreciated the opportunity provided to our Executive Director, Mike McCabe, to give detailed testimony on the need for campaign finance reform at the April 10 committee hearing. Today, I will simply highlight that testimony and our support for each of the three bills before the committee today. Please refer to the April 10th testimony for additional arguments, as well as the Brennan Center for Justice Report we distributed to the committee that provides an excellent assessment of Wisconsin's campaign finance laws and makes a strong case for reforms that make our system useful and attractive to candidates and the public alike.

This past election for Justice of Supreme Court was by far the ugliest, most partisan and expensive Supreme Court race our state has ever seen. After final campaign reports are filed in July, spending on the Supreme Court race will top $6 million, coming on the heels of a $32 million race for governor and more than $8 million attorney general's election campaign. Most of these expenditures were on negative ads that said nothing of the candidate's ability to meet the responsibilities and duties of our highest court.

More than half of the spending was done by a handful of interest groups. The candidates themselves broke the spending record by a wide margin for Supreme Court candidates, yet were outspent by a long shot by special interest groups. Of the amount we have been able to account for so far, with two weeks of candidate fundraising and several late interest group ad buys yet to be counted, a single interest group is responsible for more than 40% of all spending in the race.

We must first start reform with truth in campaigning. **Senate Bill 77** addresses the need for full disclosure of all election related activities. It honors the public's right to know who is trying to influence the outcome of elections, who is bankrolling campaigns, how much is being spent, and where the money comes from. In the $6 million Supreme Court race, the origins of as much as $2 out of every $3 used to influence the outcome of this election were concealed from public view.

To suggest that this campaign reform limits free speech or is even unconstitutional is undemocratic. Campaign finance reform is critical to free speech because political speech has become anything but free. The cherished First Amendment right to free speech is being turned into a privilege -- a commodity that is bought and sold. The skyrocketing cost of campaigns

prices people of modest means out of the democratic process. We need a level playing field that allows everyone to participate in our democracy. Such notions that money is speech and secrecy is freedom counter the fundamental precepts of our democracy.

Because voters are losing faith that justice is really blind, it is imperative that we maintain and safeguard impartial justice. We appreciate the lead taken by Senator Kreitlow and members of the freshman class in the Assembly by introducing **Senate Bill 171** calling for public financing of state Supreme Court races. Impartial Justice has already been instituted in North Carolina and is working extremely well. New Mexico also recently enacted similar reform. Statewide campaigns for judicial offices are now being conducted in North Carolina for no more than a few hundred thousand dollars and judges are expressing relief that they no longer have to seek special interest dollars and are no longer perceived to be under the influence of campaign supporters when they rule on cases.

Further, as acknowledged with Senate Bill 77, transparency and citizens' right to know are paramount to a functioning democracy. **Senate Bill 170**, the **Judicial Right-to-Know Act**, is one additional step to ensure impartial justice and rebuild public trust in our courts. By requiring judges follow the rules relating to conflicts of interest, the bill empowers citizens as parties to a civil suit with information that ensures impartial consideration in their court case.

What has happened in the aftermath of the recent Supreme Court election – namely the complaint filed against Judge Annette Ziegler by the Ethics Board and the investigation launched by the Judicial Commission in response to a complaint we filed – speaks powerfully to the need for the Judicial Right-to-Know bill. Conflicts of interest cut to the heart of judicial integrity because of their capacity to seriously undermine public confidence in the fairness and impartiality of judges and our courts.

We look forward to working with the committee on future discussions relating to comprehensive reform for Wisconsin that would restore voter-owned elections for <u>all</u> state offices. With donor-owned elections you get a public that believes their own elected representatives are more beholden to their cash constituents than their own voting constituents. The Democracy Campaign supports both Senate Bill 12 – the Ellis/Erpenbach bill – and the Pocan/Risser Clean Elections bill modeled after the highly successful systems already up and running in Arizona and Maine and recently adopted in Connecticut.

These three proposals before the committee today each work to rebuild public trust and confidence in our government by supporting transparency and empowering citizens so imperative to a healthy democracy. Please support Senate Bills 77, 170, and 171.

Testimony of

Susan Armacost
Legislative Director
Wisconsin Right to Life

In opposition to
SB 77 and SB 171

Before the Senate Committee on
Campaign Finance Reform,
Rural Issues and Information Technology

May 1, 2007

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I am Susan Armacost, Legislative Director of Wisconsin Right to Life testifying in opposition to Senate Bill 77 and Senate Bill 171.

Senate Bill 77

Some lawmakers want to pass a law to protect themselves from having their voting records and stands on public policy issues discussed at election time in the public arena. Apparently, these public officials are offended when issue-oriented organizations, like Wisconsin Right to Life, or individuals, distribute objective information to the public about them regarding their voting records and stands on issues. They want to make it so burdensome on average citizens and citizen organizations to carry out these activities that many will no longer bother. This, of course, is precisely the result the supporters of SB 77 want.

Senate Bill 77 and countless other measures this session and in past sessions have been proposed that would diminish the ability of citizens organizations to freely engage in political discourse at election time by forbidding a non-PAC entity or individual from even mentioning the name of a public official, a political party or a political office on a billboard, in a newspaper ad, in a radio ad or in a television ad. These skiddish public officials so fear the prospects of anyone talking about them in any of those contexts at election time that they would subject ordinary citizens to fines and imprisonment unless they form a political action committee.

I think about our Wisconsin Right to Life chapters throughout the state. Many of them put newspapers ads in their local papers as a public service with the voting records of local State Senate and Assembly candidates on right to life

issues. Some of our chapters purchase air time on their local radio stations to inform the public in their area how their elected officials voted regarding right to life issues

Our chapter leaders are ordinary citizens. Public officials see them when they are back in their districts in the grocery store, in church, at kid's soccer games. Some of our chapters hold meetings around a kitchen table and publish their newsletters in their basements. But under SB 77, if these good people don't submit to the unwieldy and burdensome restrictions governing political action committees, the self-serving politicians who support SB 77 would impose stiff fines or imprisonment on them for simply talking about the voting records of public officials within 60 days of an election!

A law that allows only PACS to speak about politicians would silence ordinary citizens across the state that do not have the resources to meet the complex regulatory demands that are involved in operating a PAC.

Even citizen organizations that have connected PACS, such as Wisconsin Right to Life, would have their First Amendment rights chilled, which is precisely what the supporters of SB 77 want. Many people who belong to citizen organizations do not want their personal information to be a matter of public record. In a 2006 poll by the Institute for Justice, 60% of those polled said they would think twice about contributing to an issue campaign if their personal information will be disclosed and posted on a government website. Senate Bill 77 would require the public posting of the personal information of members of citizen organizations if that organization even mentioned the name of a candidate

within 60 days of an election in the formats covered in the legislation. The personal information of members of Wisconsin Right to Life is none of the government's business!

Self-serving public officials who don't want to be talked about at election time want to determine who will be allowed to speak, at what time and for how long. We don't need speech nannies to decide for us which messages we will or will not be able to receive. Our constitutional system of government ultimately rests on the general premise that the voting public, also known as grownups and American citizens, should be allowed to sort out competing political messages without government-imposed filters.

Senate Bill 77 goes well beyond McCain-Feingold in several respects. It mandates disclosure of contributor information once a $20 contribution threshhold has been reached. And at $100, SB 77 mandates the donor's employment information be made public. In McCain Feingold, contribution disclosure is not mandated until a threshold of $1000 has been reached.

Senate Bill 77 chills the First Amendment rights of citizens 60 days before any election. McCain Feingold chills the First Amendment rights of citizens 30 days before a primary election and 60 days before a general election.

The communication media activities in Senate Bill 77 reaches to television, radio, newspaper ads and billboards. McCain-Feingold does not include all of those mediums.

I'm sure you are aware these differences would have to be justified by the State of Wisconsin

Senate Bill 171

Wisconsin Right to Life strongly opposes SB 171, which mandates the tax funding of elections for State Supreme Court candidates. We oppose the use of tax dollars to fund the elections of any candidate for any office. What it amounts to is forcing taxpayers to foot the bill for the campaign expenses of candidates some citizens may oppose and not want elected.

Supporters of tax funded elections lament the fact the fact that there are an insufficient number of people who currently "check off" on their income tax forms to fund elections. They say additional sources of tax funding should be available so candidates can receive the maximum grant to which they are "entitled" and the influence of "interest groups" will be lessened.

If the people of Wisconsin are not responding to the check off, isn't that an indication that they don't want to pay for the election expenses of politicians? In July of 2006, the Wisconsin Policy Research Institute and Diversified Research released a poll showing that Wisconsin residents oppose using Taxpayer dollars to fund Wisconsin campaigns by the hefty margin of 65% to 26%.

No one should be surprised that Wisconsin citizens want to decide for themselves if they want to contribute to a politician's campaign and to whom they will contribute. They most certainly do not want to pay for the bumper stickers and yard signs of candidates they oppose! Senate Bill 171 is nothing more than an entitlement scheme for politicians. Wisconsin Right to Life urges you to oppose it.